

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RONDEL DELBERT GARDNER,
Plaintiff,

v.

JOSEPH McQUIRTER et al.,
Defendants.

NO. LA CV 13-09013-VBF (AGR)
ORDER

Adopting the Report and
Recommendation of the U.S.
Magistrate Judge and

Directing that the Second
Amended Complaint Be Filed as
of August 24, 2015

Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Complaint, records on file, and the Report and Recommendation of the magistrate judge. Plaintiff has not filed objections and the time has elapsed for him to do so. The Court accepts the findings and recommendation of the magistrate judge.

Plaintiff alleged that he had received inadequate medical care from Defendant, an oral surgeon, and from unnamed staff. The magistrate judge found that Plaintiff had failed to allege deliberate indifference to a serious medical need by Defendant. The magistrate judge also noted that Plaintiff had already been given an opportunity to amend his complaint to state a claim when the

1 magistrate judge had screened Plaintiff's complaint. (Report at 8.)

2 The magistrate judge nevertheless recommended that Plaintiff be granted
3 leave to amend one more time in conformance with the legal standards outlined
4 in the Report. (*Id.* at 9.) The magistrate judge noted that Plaintiff appeared to be
5 attempting to assert claims against unnamed members of the dental staff. (*Id.*)

6 On August 24, 2015, Plaintiff submitted a Second Amended Complaint . In
7 addition to McQuirter, Plaintiff names three new defendants. (*Id.* at 2-3.)

8 **IT IS ORDERED that the Second Amended Complaint be deemed filed**
9 **on August 24, 2015, the date it was received. The Court refers the matter**
10 **back to the magistrate judge for further pre-trial proceedings.**

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12 DATED: September 2, 2015

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15 VALERIE BAKER FAIRBANK
16 United States District Judge
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